

No. X06-UWY-CV15-6050025-S	:	SUPERIOR COURT
	:	
DONNA L. SOTO, ADMINISTRATRIX OF	:	COMPLEX LITIGATION DOCKET
THE ESTATE OF VICTORIA L. SOTO, ET AL.	:	
	:	AT WATERBURY
v.	:	
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL.	:	SEPTEMBER 10, 2021

**REMINGTON’S RESPONSE TO PLAINTIFFS’  
MOTION TO MODIFY PROTECTIVE ORDER**

Plaintiffs’ Motion to Modify Protective Order (Entry No. 374.00) raises six issues that require a response from Defendants Remington Arms Company, LLC and Remington Outdoor Company, Inc. (collectively, “Remington”).

First, for the reasons explained at the August 24, 2021 status conference, Remington has no objection to the proposed motion to modify the protective order (Docket Entry Nos. 217 and 217.1) deleting subparagraphs 2(b) through (h). Defendants also have no objection to adding Plaintiffs’ proposed subparagraphs 2(i) through (l). Plaintiffs never raised the issue of modifying the protective order with Remington before filing their motion.

Second, Remington has no objection to the motion to modify the protective order adding educational and employment records to the list of “confidential” items covered by the protective order. In fact, Remington already has agreed, in response to an earlier request by Plaintiffs, to treat these documents as covered under the existing protective order. The notices of deposition and subpoenas were served on or about July 12, 2021. The employment records were subpoenaed to learn information about the adult decedent’s employment history that may be relevant to an expert’s evaluation of wrongful death damages. Similarly, the children’s educational records were sought to learn whether there is anything in their family, social, and/or

developmental background that might be relevant to an expert evaluating damages. Records of this type are routinely obtained for this purpose in wrongful death cases.

On August 2, 2021, counsel for the Town of Newtown (the “Town”) confirmed an earlier discussion with counsel for Remington that the Town would produce the records in lieu of appearing for the deposition. On the same date, counsel for Plaintiffs indicated that the records should not be produced without her clients’ consent. On August 4, 2021, counsel for Plaintiffs, the Town, and Remington conferred. During that conference, Plaintiffs’ counsel did not object to the production of the subpoenaed records, but instead requested the documents all be marked “CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER.” Counsel for Remington agreed, and counsel for the Town agreed to mark the documents in that fashion. On August 13, 2021, the Town produced the documents requested and marked every page “CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER.” Remington heard nothing further with respect to this issue until the filing of September 2, 2021 motion.

Third, in light the fact that the educational records were produced on August 13, 2021 with the consent of the Plaintiffs, there was no good faith reason for Plaintiffs to include in their motion the gratuitous arguments regarding the “relevance” of the documents sought from the Town. These arguments are not intended to persuade the Court regarding the entry of the protective order—particularly since Remington already consented to treat the educational and employment records as confidential under the existing protective order—but instead only to inflame the public and demonize Remington and its counsel.<sup>1</sup>

---

<sup>1</sup> Remington’s counsel received at least one inquiry from the press about Plaintiffs’ motion shortly before receiving a copy of the motion from the Plaintiffs. The disclosure to the press before the filing of the motion with the Court demonstrates the true purpose of the “relevance” objections.

Fourth, the portion of Plaintiffs’ motion challenging the unopposed subpoenas—none of which would be admissible at trial—has received nationwide coverage in the press and on social media, inciting a national uproar against Remington and its counsel. Some of the reports described the motion and quoted Plaintiffs’ counsel, *e.g.*, Scott Neuman, *Gun-Maker Sued in Sandy Hook Shooting Wants the School Records of Slain Children*, NPR (Sep. 3, 2021 10:16 AM), <https://www.npr.org/2021/09/03/1033950752/remington-subpoenas-the-school-records-of-children-slain-at-sandy-hook>; Edmund H. Mahony, *In Sandy Hook Shootings Court Case, Remington Arms Seeks School Records of Slain First Graders*, Hartford Courant (Sep. 2, 2021 6:32 PM), <https://www.courant.com/news/connecticut/hc-news-sandy-hook-remington-20210902-20210902-mjpv4hyty5hvrejfn3gjcbbtym-story.html>; Melissa Chan, *The Gun Maker Being Sued for the Sandy Hook Shooting Wants School Records for Some of the Children Who Died*, Time (Sep. 2, 2021, 2:45 PM), <https://time.com/6094804/sandy-hook-lawsuit-school-records/>; Li Cohen, *Remington Subpoenas School Records of Children and Adults Killed in Sandy Hook Mass Shooting*, CBS News (Sep. 3, 2021, 12:09 PM), <https://www.cbsnews.com/news/remington-subpoenas-school-attendance-and-discipline-records-of-children-killed-in-sandy-hook-mass-shooting/>; Matthew Gault & Jason Koebler, *Remington Subpoenas Report Cards of 5 Children Killed in Sandy Hook Shooting*, Vice (Sep 2, 2021, 4:46 PM), <https://www.vice.com/en/article/akgpdg/remington-subpoenas-report-cards-of-five-children-killed-in-sandy-hook-shooting>; Erin Doherty, *Remington Subpoenas School Records of Sandy Hook Shooting Victims*, Axios (Sep. 3, 2021), <https://www.axios.com/remington-sandy-hook-shooting-subpoenas-records-ab85a5c7-fe58-4a6a-a8bc-1700773d45ef.html>.

Other articles were far more inflammatory. *E.g.*, *Decency in the Crosshairs: Remington’s Unfathomable, Inexcusable Pursuit of Sandy Hook Children’s School Records*,

New York Daily News (Sep. 7, 2021, 4:05 AM) (“[T]he latest legal maneuver by lawyers for Remington . . . is enough to leave even the most cynical person speechless.”), <https://news.yahoo.com/decency-crosshairs-remington-unfathomable-inexcusable-080500146.html>; Joe Patrice, *Biglaw Partner Wants to Know How Responsible Sandy Hook First Grader Is for His Own Murder*, Above The Law (Sep. 3, 2021, 2:24 PM) (making baseless and false speculation that Remington’s counsel are “Alex Jones-influenced numbskulls” who intend to argue at trial that the shooting never happened), <https://abovethelaw.com/2021/09/biglaw-partner-wants-to-know-how-responsible-sandy-hook-first-grader-is-for-his-own-murder/>; Andre J. Ellington, *Twitter Outraged at Report Remington Seeks Report Cards of Sandy Hook Shooting Victims*, Newsweek (Sep. 2, 2021, 10:35 PM) (quoting social media remarks of several commentators, including baseless and false speculation that Remington’s lawyers intend to “threaten” Plaintiffs by “using this information to further engage and empower the conspiracy theorists”), <https://www.newsweek.com/twitter-outraged-report-remington-seeks-report-cards-sandy-hook-shooting-victims-1625679>.

Sixth, Plaintiffs’ assertion that they should be “under no obligation to withhold from the public the documents that they have obtained and will obtain from Remington through this litigation” ignores the fact Remington is entitled to a fair trial, and pretrial publicity of evidence in the press or on social media that would otherwise be inadmissible at trial would materially prejudice the trial of this matter—regardless of whether those documents are subject to a protective order. *See State v. Dulos*, No. FSTCR190148554T, 2019 WL 4898712 (Conn. Super. Ct. Sept. 12, 2019); Rule 3.6 of the Connecticut Rules of Professional Conduct (“A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by

means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.”); Commentary to Rule 3.6 (“(5) There are, on the other hand, certain subjects which are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to: ... (e) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial.”)

Counsel for the parties in this case have a clear ethical obligation to not make extrajudicial statements regarding matters that are likely to be inadmissible because such statements create a risk to the parties’ right to a fair trial.

DEFENDANTS REMINGTON ARMS  
COMPANY LLC AND REMINGTON  
OUTDOOR COMPANY, INC.

By: /s/ James H. Rotondo

Jeffrey P. Mueller

Paul D. Williams

James H. Rotondo

For: DAY PITNEY LLP

242 Trumbull Street

Hartford, CT 06103

Phone: (860) 275-0100

Fax: (860) 275-0343

Juris No. 014229

James B. Vogts (*pro hac vice*)

Andrew A. Lothson (*pro hac vice*)

SWANSON MARTIN & BELL, LLP

330 North Wabash, #3300

Chicago, IL 60611

Phone: (312) 321-9100

Fax: (312) 321-0990

*Their Attorneys*

## **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been emailed this day to all counsel of record as follows:

Joshua D. Koskoff  
Alinor C. Sterling  
Jeffrey W. Wisner  
KOSKOFF, KOSKOFF & BIEDER, P.C.  
350 Fairfield Avenue  
Bridgeport, CT 06604  
[jkoskoff@koskoff.com](mailto:jkoskoff@koskoff.com)  
[asterling@koskoff.com](mailto:asterling@koskoff.com)  
[jwisner@koskoff.com](mailto:jwisner@koskoff.com)

H. Christopher Boehning (*pro hac vice*)  
Jacobus J. Schutte (*pro hac vice*)  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON, LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064  
[cboehning@paulweiss.com](mailto:cboehning@paulweiss.com)  
[jschutte@paulweiss.com](mailto:jschutte@paulweiss.com)

/s/ James H. Rotondo  
James H. Rotondo